

Resisting Rights: Forest Bureaucracy and the Tenure Transition in India

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Abstract A global ‘forest tenure transition’ is underway, with declining state tenure of previously appropriated forested landscapes and increasing citizen tenure. However, at the local level the process involves complex political-economic struggles with the incumbent power holders. This paper examines these struggles, taking the example of India’s Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (or simply Forest Rights Act). Considering the implementation processes in the state of Andhra Pradesh, the extent to which rural people in forest areas have been able to access the provisions of the Act is assessed. Based on fieldwork from 2010, weaknesses are identified in the way legislated rights are being secured, and the Andhra Pradesh Forest Department staffs are found to obstruct the democratic mandate for reform. It is concluded that the Andhra Pradesh Forest Department is operating beyond the normal processes of democratic control and oversight in a bid to retain its hegemony.

Keywords Forest Rights Act · Andhra Pradesh · Livelihoods · Community forest management · Bureaucracy

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Introduction

Much of the world's forested landscapes was historically appropriated by non-democratic states, marginalising or extinguishing the customary rights of local peoples in the process. During post colonial state-building in the second half of the 20th Century, whilst there has been significant private agricultural land reform, there seemed little promise of the 'other land reform', i.e. public lands, including state forests. Since the mid 1980s, gradually the reform of rights in forested landscapes has emerged as a widespread international phenomenon, some observers going as far as describing it as representing a continuing global 'forest tenure transition' (White and Martin 2002). The process seems to be continuing, with 9.1 % of forest land now owned by communities (Sunderlin et al. 2008). The reforms are driven by a combination of instrumental rationale that local people may be better able to manage and protect forests, but also through campaigning from civil society groups, by principles of justice, as a way to redress the injustice committed at the time of the creation of national forest estates.

India is an important part of this tenure transition process, because it contains probably the largest single population of local people to be potentially affected positively by such reform. Severe rural poverty in forested landscapes, particularly for tribal groups in the central and eastern forest belt, reflects expropriation of livelihood resources through state appropriation of forested land from the mid 19th century onwards (Guha 1983; Gadgil and Guha 1992, 1997; Sivaramakrishnan 1999). There is a close coincidence here between forests, poverty and tribal groups. 'Of about 300 million people (or 60 million households) estimated to live below the 'poverty line' in India, about 200 million of the people are partially or wholly dependent on forest resources for their livelihoods' (Khare et al. 2000, p. 24). The World Bank (2006, p.1) estimated that '[a]bout 275 million poor rural people in India depend on forests for at least part of their subsistence and cash livelihoods'.

Forest users in India include a large proportion of indigenous people: over 84 million people are identified as belonging to scheduled tribes (STs) under Schedules 5 and 6 of the *Constitution of India* (8.3 % of the national population, as at the 2001 census), 84 % of whom live in forested areas (World Bank 2006). Three key groups are identified as particularly exposed to chronic poverty: casual agricultural laborers, scheduled castes and scheduled tribes (Mehta et al. 2003).

The Forest Rights Act 2006 (FRA) represents a seminal moment in India's contested forest politics, because for the first time the state has acknowledged that the expropriation involved an 'historical injustice'. According to the Preamble of the Act, 'the forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling scheduled tribes and other traditional forest dwellers.' (Government of India 2006, p. 1).

The Act legislates for the restitution of rights, subject to stringent eligibility conditions and evidence. However, the ultimate securing of the forest rights is dependent on local implementation. This involves restoring community control over a part of the approximately 23 % of India's land area under the control of state-level

Forest Departments which have been among the law's strongest opponents (Springate-Baginski and Blaikie 2007).

This paper assesses the processes through which the FRA is being implemented, and whether local forest governance conforms to the new law. This is not a study of forest condition and change thereof due to rights being granted, nor a utilitarian assessment of whether a state or community management regime would be preferable. The question addressed is whether public servants, particularly staff of the forest bureaucracies, observe the legislature's legal mandates. That state bureaucracies have a tendency to seek to insulate themselves from democratic oversight is hardly a new insight (e.g. see Skockpol et al. 1985). Yet understanding whether bureaucracies are resisting legal mandates in relation to the rights of one of the largest groups of poor in the world is critically important for both the wellbeing of this group and as an indicator of the health of India's democracy.

The Origins and Nature of Forest Rights Deprivations in India

The history of enclosure of forests in colonial India from the 19th century has been thoroughly examined in the literature (e.g. Guha 1983; Singh 1986; Hobley 1997; Sivaramakrishnan 1999; Ghosh 2007; Springate-Baginski and Blaikie 2007). From the 1860s, the colonial Forest Department used legal provisions to reserve more than a fifth of India's land area for timber production. This involved appropriating land from the customary users, through a 'settlement' process. Settlement involved an inquiry into existing forest users, and where the forests' timber values were high, rights were extinguished, creating 'Reserved Forests'. Where forests were perceived as less valuable, 'Protected forests' were established with restricted rights. In this process the Forest Department became widely seen as the 'least popular arm of the colonial government' (Guha 2001), provoking repeated uprisings (Arnold and Guha 1995; Grove et al. 1998; Sivaramakrishnan 1999; Pathak 2002).

Despite forest people being in the forefront in resisting colonialism, after Independence in 1947 the State reaffirmed the forest governance regime inherited from the British, and state forestry policies continued little changed. Indeed, for tribal people the situation in many cases worsened, as due processes for settlement of rights were generally forgotten in the post-Independence takeover of remaining feudal private forests (see Guha 1983; Ghosh 2007). However, the colonial and subsequent Independent Indian state developed a range of legislation to establish local rights to forest use, including:

- the Indian Forest Act 1927 (particularly Section 28 providing for 'village forests').
- the Indian Constitution (1949), specifically Schedules V and VI providing special constitutional protection to the resource rights of tribal communities,
- the Ministry of Environment and Forests guidelines of September 18, 1990 for resolving conflicts with tribals and other forest dwellers related to forest land as well as the 1988 national forest policy.

- the *Panchayats* (Extension to The Scheduled Areas) Act, 1996, which provided for self-governance in accordance with their customs and traditions in Schedule V areas, including management of community resources and ownership of non timber forest products (NTFPs) by Gram Sabhas (village assemblies).

These provisions have, however, not been widely respected by the political and administrative groups, and the inequitable pre-democratic heritage of Indian forest governance has remained remarkably resistant to democratic reform (Springate-Baginski and Blaikie 2007).

Lack of Rights Reform Through Joint Forest Management

Profound problems in post Independence forest governance began to become apparent during the 1960s and 1970s, involving (1) increasingly violent conflict between Forest Department staff and the local people whose forest use had been criminalised, (2) unsustainable harvesting by industry and (3) emergence of illicit mafias, whilst poverty in forest areas persisted and even worsened. The ‘Chipko’ movement of Uttar Pradesh became a media token of nationwide dissent (Guha 1989). Foresters’ experiments with renegotiating village relations in southern West Bengal led eventually to the Joint Forest Management (JFM) model endorsed in the Government’s National Forest Policy 1988, which rapidly spread with donor encouragement and was formalised nationally in the 1990 JFM Order of the Ministry of Environment and Forests. Under JFM, Forest Department staff induced people to help protect their local natural forests and plantations, and in return local people were informally and conditionally allowed access to NTFPs, a share of revenue from the Forest Department’s timber felling and sometimes wage labour opportunities, often from donor funds. The Ministry of Environment and Forest’s own orders requiring the resolution of tenurial disputes and the recognition of rights as mandated by law (Ministry of Environment and Forests 1990a) suggest JFM agreements were generally ad hoc administrative decrees, without legal basis, and did not entail the concession of legal rights.

Several studies of JFM have shown that although conflict has been reduced and forest condition improved at least during donor-funded projects, the livelihood benefits have been minor, and often negative for women, the poor and minority groups (Kumar 2002; Poffenberger and McGean 1996). The lack of legally-based community empowerment has meant that after project-based wage labour opportunities finish, interest from committees subsides (Ravindranath and Sudha 2004; Springate-Baginski and Blaikie 2007). Joint Forest Management has served in many cases to further entrench and extend the Forest Departments’ power (Sarin et al. 2003; Sarin 2003a; Sundar 2000; Reddy et al. 2007).

Although officially over 100,000 JFM groups have been formed across India, it is reasonably estimated that at least 25 % of these are pre-existing community forest management institutions (Sarin 2006). Further, the proportion of those that remain active may be less than half, and falling (Springate-Baginski and Blaikie 2007), with anecdotal reports suggesting this is mainly because of disillusionment with JFM at village-level. In fact participation in JFM has been reported as reducing the

appreciation of local communities for the Forest Department (Macura et al. 2011). This disillusionment is also felt by all the major donors including the World Bank, which, excepting the Japanese, have ceased supporting JFM over the last decade.

Emergence of the Forest Rights Act

In a 1989 review of the conditions prevailing in interior tribal areas, the Commissioner for scheduled tribes and scheduled castes (a constitutional authority) pinpointed the lack of settlement of land and forest rights as the underlying cause of the prevalent civil unrest (Sharma 1990). His recommendations led the Ministry of Environment and Forests (MoEF) to issue administrative guidelines for the States to resolve the conflicts related to forest land and to regularize the rights. However, when these reached state governments they were largely ignored, except the one relating to encroachment on forest land. The public's attention to forest issues had meanwhile shifted to Joint Forest Management.

From 1996, a Public Interest Litigation challenged the lack of enforcement against opportunistic commercial forest encroachment (TN Godavarman vs. Union of India), resulting in an unprecedented Supreme Court process and a succession of orders. Interpreting one these order The MoEF issued a directive on the 3rd May 2002 for Forest Departments to evict all so-called 'encroachers' ineligible for regularization by 30th September, 2002 (Ministry of Environment and Forests 2002). In a reply to a Parliamentary question the MoEF stated that between May 2002 and August 2004 an estimated 152,000 ha of forest land was cleared of 'encroachments' (PIB 2004). Depositions made at public hearings indicated the nature and scale of these evictions:

more than 300,000 families across India were forcibly evicted. More than a hundred villages were burned in Madhya Pradesh, eight people killed in police firings and 40,000 families left homeless in Assam, and elephants used against villagers in Maharastra and Assam. In many cases those evicted had been cultivating from prior to 1980 – and hence were legally entitled to their lands ... The justification for this brutality was the need to remove “encroachers” and protect forests. (Campaign for Survival and Dignity, 2003:2).

Ultimately this eviction process became a political liability, and in October 2002, under political pressure the MoEF issued a clarification order that *not all* those in occupation of forest land were illegal encroachers, and so people should not be evicted before their rights claims have been assessed. The evictions in 2002 mobilized forest dwelling groups into popular movements across the country. These gradually coalesced into the campaign for survival and dignity (CSD), a loose federation across 10 states. Procedural guidelines developed by CSD demanding the implementation of the 1990 orders became converted into the first draft of a Forest Rights Bill. Almost 2 years of heated debate and political lobbying ensued from the preparation of the first draft bill in 2005 to its unanimous passage by Parliament in December 2006. Opposing this proposal was an alliance of conservation NGOs including the Wildlife Trust of India and the forestry bureaucracy. As a result of this

democratic process, the final FRA became a considerably modified version of the initial draft.

The Provisions of the Forest Rights Act 2006

The *FRA* seeks to achieve recognition of pre-existing rights of rural people in forest areas. The Act has preliminary sections and then seven chapters. The stated aim is:

to recognise and vest the forest rights and occupation in forest land in forest dwelling scheduled tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded [and]; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land (Government of India 2006, p. 1).

Four chapters elaborate the rights, the powers under the Act and the procedure for recognition of rights. Accompanying Rules offer guidance for implementation, yet leave grey areas on many provisions of the Act. The implementation is left at the discretion of the state-level implementing agencies. Key grey areas include definition of what constitutes a 'village', provisions for community tenure, and interpretation of eligibility criteria.

Overall there are two main sets of rights to be gained in the FRA. One is land rights, both private and communal, including redressing past illegal eviction or displacement. The other relates to community resource use, including collective management of common (or community) forest resources. Statutory rights to protect, conserve and manage the community forest resource for sustainable use are to be vested in the village assembly, the *gram sabha*, effectively over-riding JFM Committees.

Extensive state legislation and administrative regulations currently constrain NTFP collection and marketing, involving state monopolies for many products, which frequently depress purchase prices for collectors. Section 3(1) c of the FRA recognises claimants' 'right of ownership to Minor Forest Products', effectively superseding current structures and practices.

A cause for concern for conservationists has been whether granting rights would lead to destruction of remaining forests. Although the FRA contains strict conditions that only land under actual occupation since December 2005 (combined with proving residence in the area for decades in the case of non-tribals) is eligible for rights, there is concern that the Act may be abused to take over new land, and that regularising occupation may create incentive for more people to occupy forest land without title, particularly in the remaining forest areas containing threatened wildlife.

The provision to declare critical wildlife habitats (CWH) areas of particular conservation value to be made inviolate, introduced in the FRA, is an answer to this concern. However, the MoEF issued its own CWH guidelines before the Act came into force and attempted to declare all protected areas as CWHs. In response to criticism of these CWH guidelines violating provisions of the law, MoEF withdrew

them and placed new draft guidelines for public comments on its website (Ministry of Environment and Forests 2011).

Research Method

To address the question of the extent to which the FRA is being implemented and rights secured, the authors examined the implementation processes in Andhra Pradesh, between 2008 and 2010, conducting a detailed field study of the process in six villages across forested landscapes of the state.

A small number of villages were selected for detailed study, through a multi-stage stratified random sampling process. The districts of Andhra Pradesh were stratified by the three main regions—Telangana, Rayalseema and Coastal Andhra. These correspond to distinct administrative heritages as well as agro-ecological zones (Reddy et al. 2010). Five districts all with substantial proportion of forest cover, a high proportion of tribal people, and extensive and severe forest rights deprivations, were selected, so as to capture the three prevailing tribal administrative arrangements: (1) tribal majority ‘scheduled’ areas enjoying special protection under the constitution; (2) tribal ‘sub-plan’ areas with tribal clusters although tribal communities are an overall minority in the district; and (3) non-scheduled areas. The districts chosen were Adilabad, East Godavari, West Godavari, Visakhapatnam and Kurnool.

In each district, one *panchayat* (the lowest level of local self-government, comprising a cluster of several villages and hamlets in Andhra Pradesh) was randomly selected and within each *panchayat* one settlement was randomly selected. Within each settlement 20 % of households were randomly selected and surveyed (a total of 106 across the villages). Senior household members, male and female, were interviewed together. Table 1 summarizes the range of selected districts, and the location of the study villages is indicated in Fig. 1.

The selection process does not allow direct extrapolation of the survey findings. Sufficiently detailed data on the prevalence of the various forest rights deprivations from which to do this simply does not exist. Knowing how many villages are eligible for rights under the Act has been a problem even for the implementing agencies. The data presented here are sufficient to characterise the nature of the process.

A comprehensive method was applied across the study sites, focusing on both village and household level, as well on stakeholders involved in administering or supporting the FRA implementation process. At village level, data were collected

Table 1 Stratification of the selected districts

Agro-ecological zone	Tribal administrative arrangement		
	Scheduled	Sub-plan	Non-scheduled
Telangana	Adilabad	West Godavari	
Rayalseema	Kurnool	East Godavari	
Coastal Andhra			Visakhapatnam



Fig. 1 Location of study sites in Andhra Pradesh, India

through discussion with key informants (administrators and senior local people) and focus group discussions (with village assembly and sub-groups). Household data were collected through structured interviews using a detailed questionnaire.

Data collection involved qualitative and quantitative investigation on the range of relevant issues: rights deprivations, eligibility for rights under the Act. Forest claims, and evidence submitted, were also reviewed. Livelihood conditions, land use patterns, experience of the claim process and outcomes were also assessed.

Local staff involved in the implementation and claims review processes were interviewed to gain an understanding of their engagement and rationale.

Qualitative criteria and indicators were developed concerning how the FRA was being implemented in the study villages, according to basic aspects of the various stages of implementation proposed in the FRA rules. Five key process criteria and indicators were developed, as presented in Table 2. The first key criterion identified for implementation was the village forest rights committee formation process, for which three indicators were defined: whether the outside facilitators notified the village in advance, whether the meeting was held at the appropriate level, and whether a committee was properly elected. Parameters were then developed to assess performance according to each of the indicators. The second criterion was training and awareness raising of local people. The third criterion was the quality of the claims submission process—particularly whether citizens who were eligible to claim successfully did so, for both private and community claims. The fourth criterion was the quality of the verification process for claims. The last criterion was whether rights and titles have actually be granted.

Table 2 Criteria and Indicators developed for assessing FRA implementation performance

Criteria and indicator	Detail	Performance measure (good/medium/poor)
1: FRC formation process	Has the local Forest Rights Committee tasked with village level implementation been properly formed and had their capacity sufficiently developed.	
1A: Is there prior notification of FRC formation meeting from administration?	Were the village inhabitants notified sufficiently in advance of the meeting in order that they could attend? (e.g. explanation provided of what the meeting would deal with so that those affected by the issues would know to prioritise attendance).	<p>✓ Good: at least a week notice and adequate explanation of what the FRA would be about.</p> <p>~ Moderate: 3–7 days/some indication of the purpose or context</p> <p>✗ Poor less than 3 days and little or no indication of the purpose or context</p>
1B: Is the meeting convened at appropriate level?	The Act requires the meeting must be at the <i>gram sabha</i> level, not at the <i>panchayat</i> level.	<p>✓ Good: <i>gram sabha</i> (hamlet)</p> <p>✗ Poor: <i>Panchayat</i> (cluster of hamlets/villages)</p>
1C: Were FRC members democratically elected?	Has the prescribed open election process been conducted?	<p>✓ Good: proper open election process</p> <p>✗ Poor: committee selected by administrators</p>
2. FRC training and awareness raising	Has the FRA provisions, eligibility conditions been fully explained to the general assembly, and have FRC members been trained to fulfil their implementation roles?	
2A: How satisfactory is the awareness resulting from the training?	This was assessed according to how satisfied respondents were with the level of understanding imparted, and also by testing their knowledge through assessment on key aspects	<p>✓ Good: local people and FRC achieved good understanding of main points of FRA process</p> <p>~ Moderate: significant gaps in understanding</p> <p>✗ Poor: awareness and skills not imparted</p>
3. Claims submissions	Have those eligible to claim been able to do so, and for the full extent eligible?	
3A: Have private claims been made on the main eligible areas?	The study households' applications were reviewed to assess their eligibility	<p>✓ Good: vast majority (>67 %) of eligible claims submitted</p> <p>~ Moderate: around half of eligible claims (i.e. between 34 and 66 %)</p> <p>✗ Poor: majority (>66.6 %) of eligible claims not made</p>
3B: Have community claim been made on main eligible areas?	The communities applications were reviewed to assess their eligibility	
4. Verification process	Has the due process outlined in the Act and Rules been properly followed?	
4A: Has the survey of the claimed land areas been correctly conducted?	Have the surveyors assessed correctly the area (e.g. without errors in GPS readings)?	<p>✓ Good: correct assessment/survey</p> <p>~ Moderate: few anomalies</p> <p>✗ Poor: major anomalies in surveys</p>

Table 2 continued

Criteria and indicator	Detail	Performance measure (good/medium/poor)
4B: Did FD staff refrain from interfering in the verification process?	The FD field staff is only to observe and provide technical advice according to the Act and Rules. Do they keep to this?	<p>✓ Good: correct conduct, no interference</p> <p>~ Moderate: interference but minor and/or in limited cases</p> <p>✗ Poor: Gross interference prevalent</p>
4C: Are legitimate claims approved by the FRC?	Having received claims has the FRC approved the legitimate ones?	<p>✓ Good: almost all legitimate claims approved</p> <p>~ Moderate: >50 % legitimate claims approved</p> <p>✗ Poor: few legitimate ones approved</p>
5. Issue of titles	Once claims have been approved, are titles granted in due course?	
5A: Have titles for approved claims been issued?	Whether the titles have been issued in the time frame of the study. This is a time-sensitive indicator, and is therefore weighted accordingly in the analysis.	<p>✓ Good: yes</p> <p>~ Moderate: some titles granted</p> <p>✗ Poor: no</p>

Key: ✓ good, ~ moderate, ✗ poor

Research Findings

To put the field findings in context it is important to first understand the state level implementation process. In contrast to most states, implementation efforts for the FRA in AP began almost immediately after the Act came into force in January 2008. Table 3 provides a ‘timeline’ of state level implementation events. Implementation began with the Chief Minister issuing a ‘road map’ for implementation within 10 months, an abrupt timetable for a highly complex issue of justice such as this. The haste led to a number of problems including a lack of understanding of the provisions of the act by the implementing staff and incomplete coverage: by October 2008 only about 800 of the estimated 5,000 or more eligible villages had been reached (Table 3).

Overall the village level Forest Rights Committees (FRC) formation process has been poor in all study villages. Field implementation has been conducted by teams composed of field staff from government departments, along with private project field staff of the World Bank-funded ‘Indira Kanthi Palam’ rural development project. Prior notification to villages of the meetings was minimal—none of the villages were informed more than 2 days before the officials visited them in April 2008 for *gram sabha* meetings to elect the local Forest Rights Committees, and in some outlying hamlets they were informed only on the day of the meeting (Table 4). The meetings were held at the multi-settlement *panchayats*, despite the fact that holding them at the actual settlement level is required by the law.

Table 3 Timeline of main state level FRA related developments

Date	Event
29 December 2006	President of India's assent to the FRA passed by Indian Parliament
1st January 2008	Notification of Rules leading to FRA coming into force
January 2008	Government of Andhra Pradesh (GoAP) Plan/'roadmap' for FRA implementation issued
March 2008	GoAP Orders to District Magistrates to commence gram sabha meetings to form FRCs
13 August 2008	Govt Order misinterprets 'community' to allow Andhra Pradesh Forest Department's JFM Committees to usurp community forest resource rights under FRA
21 October 2008	Andhra Pradesh Chief Minister reviewed progress at a District Collectors' conference: FRA implementation covered only 700–800 of estimated 5,000 forest dependent villages in the state
1st May 2009	Andhra Pradesh High Court permits State government to complete implementation and issue final titles for rights

FRC formation process at village level

There were free and fair elections for the FRC in four of the six villages. In the other two, the facilitators selected individuals, in one case not informing either the community or those selected. Field activities were hasty and the local people were dissatisfied. Respondents reported that after objecting to the hasty 'short-cuts', they were threatened that if they didn't cooperate 'they would not get titles'.

Awareness Raising and Training

Awareness raising and training started within a fortnight of formation. In 4 out of 6 sites training activities for the FRC were perceived to be basic, but adequate for them to gain an elementary understanding, and to pass this on to the village. In the remaining two sites the activities were poor, very superficially or not organised at all. Community rights were rarely explained in the awareness-raising campaign.

Claim Submissions

A major right to be claimed is that over the forest land households are occupying or cultivating. At 4 of the 6 sites individual claim forms were distributed, with 1 month allowed for completion with necessary evidence. In the other two, forms were not distributed because the land on which rights were claimed was not forest but rather revenue land ineligible under the Act. For 4 of the 6 study sites where villagers were eligible to apply, between 81 and 93 % applied, for an average plot size of 1.7 ha. In most villages respondents were given receipts for their claims. The overall picture for individual claims is therefore relatively positive; despite a poor FRC formation process and limited training, the individual claims were reasonably well submitted. However, because of the shortcomings of the awareness-raising activities, many households mistakenly perceived that they lacked the adequate forms of evidence to

Table 4 Verification process for individual claims

Study site	Survey properly conducted	Claims approved have full extent mapped	FD non-interference	No of private claims filed	No of claims correctly rejected	Claims incorrectly rejected	Claims approved by FRC or pending final approval	Survey process
AP1 Cheruvuguda	✗	✗	✗	35	–	2 (Claim rejected by FD staff because applicants 'did not produce proper evidence' (despite family being eligible to submit oral testimony))	33 (227.5 acre)	Claims not properly surveyed (due to FD interference in process and technical problems with GPS. Surveys forwarded for approval smaller than the extent being claimed, incomplete or even incorrect.)
AP2 Goppula-palem	✗	✗	✗	80	41	–	39	Claims not properly surveyed. (GPS inaccurate—due to slope and bushes/cloud, impatience, FD interference. People complaining plots wrong or too small)
AP3 Pamuluru	✗	✗	✗	38	8	–	30	Many claims not properly surveyed due to FD interference. People demanding resurvey
AP4 Panasana-palem	✓	✓	✓	42	41	–	1 (4 acres)	All claims surveyed—no report of mis-conduct
AP5 Koruturu	–	–	–	0	–	–	–	–
AP6 Nagaluty	✗	✗	✗	80	–	–	73. (5 pending survey)	75 surveyed Claims not properly surveyed (Technical problems and FD interference. Local people demanding resurvey)

Key: ✓ good, ~ moderate, ✗ poor

apply. Furthermore, many had not understood that there was a cut-off date for submission and so missed the date. The FRA however does not provide for an implementation cut-off date, so this provision was in fact illegal. Finally, many households submitted claims for areas smaller than the full extent that they were occupying or cultivating.

Regarding community claims, only two villages made major claims for community rights to take over lands currently under JFM. Two made minor claims, although they were eligible for major rights but unaware of this. The other two villages were eligible but were totally unaware of this provision and did not receive application forms, so made no claim for community rights.

Verification of Individuals' Claims

Verification of individuals' claims involves three stages. First the local Forest Rights Committees check an application, conduct a field survey with the applicant, (where Forest Department staff are invited to be present but only to observe), and if the claims are recommended by the FRC they should be approved by a *gram sabha* resolution. Second, these are passed up to a Sub-District Level Committee, which checks and consolidates the claims, and if satisfied approves them. Thirdly they are passed up to a District Level Committee, which if satisfied should give final approval to the application.

Interference of the Forest Department field staff was observed during the field survey process, in one case the FD staff actually transgressing their purely observation role and pressuring the FRC to reject a claim (Village 1). In all five of the villages where land claims were made and surveyed respondents reported interference by the FD, mainly by objecting to the size and number of plots and seeking to have them reduced. Technical challenges of first time use of GPS devices by the field surveyors also occurred in all five villages where claims were made, compounding these problems, and leaving the applicants with land surveys which in many cases did not reflect the claims they wished to make. Applicants can file complaints against such abuse but most are not aware of this possibility.

As indicated in Table 5, the level of claims has been reasonably high across the villages. In two of the six villages the FRA cannot address the tenure issues as the lands are under the Revenue department. In the remaining villages the survey process has not been conducted properly, due to both technical problems and interference from FD field staff. This has resulted in the surveys mis-representing the areas local people are seeking to claim. In one occasion the FD field staff interfered in the submission of evidence, when there is no mandate for them to do so.

Submission of Community Claims

The community claims are potentially much larger in terms of land extent than the individual claims, and the Forest Department has taken a more pro-active role in seeking to impede this process. On the 13 August 2008 a Government Order was issued which misinterpreted the term 'community' in the Act, allowing the JFM

Table 5 Summary of qualitative indicators of local process in the six study villages (as at September 2010)

Criteria	1. FRC Formation process			2. Train-ing and awareness raising	3. Claim submission process			4. Verification			5. Issue of titles
	Prior notification of meeting	Meeting at appropriate hamlet level	FR committees elected or selected		Private claim of main eligible areas	Community claim of main eligible areas	Survey properly conducted	FD non-interference	Legitimate claims approved by FRC?		
Indicator:											
AP1 Cheruvuguda	✗	✗	✓	~	✓	~	✗	✗	✗	✗	
AP2 Goppulapalem	✗	✗	✓	~	✓	✗	✗	✗	✗	✗	
AP3 Pamuleru	✗	✗	✓	~	✓	✓	✗	✗	✗	✗	
AP4 Panasanapalem	✗	✗	✗	✗	✗	✓	✗	✗	✗	✗	
AP5 Koruturu	✗	✗	✗	✗	~	~	-	-	-	✗	
AP6 Nagaluty	✗	✗	✓	✗	✓	✗	-	-	-	~	
Good: ✓, moderate: ~, poor: ✗ ;-not applicable											

Good: ✓, moderate: ~, poor: ✗ ; -not applicable

Committees formed by the Forest Department to usurp community forest resource rights from the *gram sabhas*. Information obtained under a right to information application revealed that, of the 2,276 community certificates of titles that had actually been issued as at September 2010, most were issued to JFM Committees. This is a clear breach of the FRA: JFM Committees, as *ad hoc* administrative bodies formed by Forest Departments, are ineligible to claim rights. The AP Government is now facing community protests and legal challenges as genuine claims have been rejected in favour of granting rights to JFM Committees. As of September 2010, no claimants in the study sites had received community rights titles.

Summary of the Implementation Process in Andhra Pradesh

Table 5 summarises the findings across the six study sites. The picture that emerges is that the implementation process was flawed across all study sites. The formation process for the FRCs was weak and training and awareness-raising were poor. The claims submission process for private land was assessed as ‘good’ in four of the six sites, due to the efforts to the local community leaders. For community claims, the process was poor or moderate in four of the six sites. Verification of titles was assessed to be poor across four of six sites, and a year after the time of the study no local people had received their titles.

Discussion

There has undoubtedly been much conscientious effort to implement the *scheduled tribes and other traditional forest dwellers (Recognition of Forest Rights) Act*, despite a number of difficulties. The Act and particularly the associated guidelines are vague on key aspects of the envisaged implementation process. There are also inevitably ‘agency problems’ due to bureaucratic management, for instance target chasing and trying to do too much too quickly in order to complete the task. But there is also evidence of deliberate obstruction of reform, particularly on the part of Forest Department staff, at field level by interfering with the surveying process beyond their mandate, and at a strategic level by using JFM committees to usurp community rights. The result has been that for the key aspects of local FRA implementation, the outcomes have been unsatisfactory.

By the end of 2009 in the six study villages a total of 63 % of private claims had been approved (176 claims, with a mean area of 4.1 acres). This is slightly higher than the overall level cited for the state as a whole of 53 % of private claims approved (173,382 claims—mean area 3.5 acres), as reported in the MoTA monitoring data.

There has been a high level of individual claim rejection, aggregate state data provided by the AP Govt to the National Ministry of Tribal Affairs indicating that only 49 % of claims submitted have been approved, the majority of which are individual claims (MoTA 2010 FRA Progress Report) Although the reasons for rejection are not given overall, discussions in study villages suggest they include lack of adequate evidence, claims on ineligible revenue land, summary dismissal by

the Forest Department field staff, and failure to allow claimants to appeal against rejection as required by the Act and Rules. Other studies indicate similar patterns of high rates of rejections for similar reasons in other states (Council for Social Development 2010; MoEF-MoTA 2010; National Advisory Council 2011) which has led the Ministry of Tribal Affairs to request to state governments that they categorise the reasons for all rejections.

Whilst many individual claims have been submitted, verified and approved, many eligible claimants have not been able to submit claims, have had their claims dismissed arbitrarily without an opportunity to appeal, or have had their eligible land area underestimated. Many communities have not been able to claim their community rights as yet.

Conclusions

The forest rights restitution process in India reflects an international process of marginalized indigenous and other forest-dependent groups seeking to defend rights to their customary land, most clearly stated in the UN Declaration on Rights of Indigenous People 2007, which emphasises the importance of recognizing and protecting indigenous peoples' rights (e.g. Larson et al. 2010). The Forest Rights Act 2006 has emerged because, 60 years after Independence, there was still no democratisation of the colonial public forest lands regime, and the marginalisation of the victims of rights deprivations was only intensifying. The Act, although far from perfect, contains adequate provisions to redress most of the rights deprivations. The implementation of the Act has to date been flawed, primarily because Forest Departments including the Andhra Pradesh Forest Department have demonstrated an implacable opposition to reform, both during the development of the Act, and once the legal reform became mandated by the National Government. Because of the difficulty for citizens to secure access to judicial recourse in rural India, policing of the forest bureaucracy has proved difficult. The 'window of redress' has thus been narrowed at every stage.

The Forest Rights Act 2006 has changed the playing field, undermining the basis for state enclosure of forest land. It puts many aspects of the current forest land administration on the wrong side of the law, and therefore in need of reform. However, despite the Act, the Forest Departments have continued their attempts at securing their control over the forest estate at the expenses of local people's rights to forests. Where there has been state implementation activity it has typically involved hasty field visits with limited time allowed preventing the most rights-deprived to be reached let alone made aware of the implications of the reforms. Individual's rights have been the main issue referred to in the implementation process, and the issue of collective rights has barely been broached.

Whether there will be further and more concerted attempts from the state to pursue implementation remains to be seen, but it seems clear already that the main momentum for implementation has come from grassroots movements and the civil society groups who have campaigned for the Act. The contest to 'common the enclosures' in India is not yet over.

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References

- Arnold D, Guha R (eds) (1995) *Nature, culture, imperialism: essays on the environmental history of South Asia*. OUP, Delhi
- PIB (Press Information Bureau) (2004) MoEF response to starred question No 284 in Parliament on regularisation of encroachments on forest land on 16.8.2004
- Council for Social Development (2010) Summary report of the seminar on the Forest Rights Act organized by council for social development on April 26–27, 2010, New Delhi
- Gadgil M, Guha R (1992) *This fissured land; an ecological history of India*. OUP, New Delhi
- Gadgil M, Guha R (1997) *Ecology and equity: the use and abuse of nature in contemporary India*. Routledge, London
- Ghosh S (2007) Commons lost and ‘gained’? Forest tenures in the Jungle Mahals of South West Bengal. Overseas Development Group, Norwich
- Government of India (1927) *Indian Forest Act 1927* (Section 28 providing for ‘village forests’). GoI, New Delhi
- Government of India (1988) *National Forest Policy*. GoI, New Delhi
- Government of India (1996) *Panchayats (extension to the scheduled areas) Act*. GoI, New Delhi
- Government of India (2006) *The scheduled tribes and other traditional forest dwellers (Recognition of Forest Rights) Act, 2006*. GoI, New Delhi
- Grove R, Damodaran V, Sangwan S (eds) (1998) *Nature and the orient: the environmental*. OUP, New Delhi
- Guha R (1983) *Forestry in British and Post-British India: a historical analysis, economic and political weekly*, 29 October and 5–12 November issues (in two parts), pp 1882–1896 and 1940–1947
- Guha R (1989) *The unquiet woods: ecological change and peasant resistance in the Himalaya*. OUP, New Delhi
- Guha R (2001) The prehistory of community forestry in India. *Environ Hist* 6(2):213–238
- Hobley M (ed) (1997) *Participatory forestry: The process of change in India and Nepal*. ODI, London
- Khare A, Sarin M, Saxena NC, Palit S, Bathla S, Vania F, Satyanarayana M (2000) *India: joint forest management: policy, practice and prospects*. IIED, London
- Kumar S (2002) Does “participation” in common pool resource management help the poor? A social cost-benefit analysis of joint forest management in Jharkhand, India. *World Dev* 30:763–782
- Larson AMD, Barry D, Dahal GR, Colfer C (2010) *Forests for people: community rights and forest tenure reform*. Earthscan, London
- Macura B, Zorondo-Rodríguez F, Grau-Satorras M, Demps K, Laval M, Garcia CA, Reyes-García V (2011) Local community attitudes toward forests outside protected areas in India. Impact of legal awareness, trust, and participation. *Ecol Soc* 16:10
- Mehta AK, A Shah (2003) Chronic poverty in India: incidence, causes and policies. *World Dev* 31: 491–511
- Ministry of Environment and Forests (1990a) *Joint forest management order*. MoEF, New Delhi
- Ministry of Environment and Forests (1990b) *Guidelines of September 18, 1990 for resolving conflicts with tribals and other forest dwellers related to forest land*. MoEF, New Delhi
- Ministry of Environment and Forests (2002) *Eviction of illegal encroachment of forest lands in various States/UTs time bound action plan, No. 7-16/2002-FC dated 3.5.2002*

- Ministry of Environment and Forests (2011) Critical wildlife habitat guidelines. MoEF, New Delhi, http://moef.nic.in/downloads/public-information/Draft_CWH_Guidelines_May_2011.pdf. Accessed 01.06.2011
- Ministry of Tribal Affairs (2010) Status report on implementation of Forest Rights Act 2006. GoI, New Delhi, <http://tribal.nic.in/index1.asp?linkid=360&andlangid=1>. Accessed 30/10/2010
- MoEF-MoTA (2010) Report of the National Committee on the Forest Rights Act. MoEF, New Delhi http://www.fra.org.in/Final%20Report_MoEF_FRA%20Committee%20report_Dec%202010.pdf
- National Advisory Council (2011) Recommendations of the National Advisory Council in regard to the Forest Rights Act of 2006, New Delhi
- Pathak A (2002) Laws, strategies, ideologies: legislating forests in colonial India. OUP, New Delhi
- Poffenberger M, McGean B (eds) (1996) Village voices, forest choices: joint forest management in India. Oxford University Press, New Delhi
- Ravindranath NH, Sudha P (2004) Joint forest management: spread, performance, impact. Universities Press, Hyderabad
- Reddy VR, Reddy MG, Bandi M, Kumar VKR, Reddy MS, Springate-Baginski O (2007) Participatory Forest Management in Andhra Pradesh: implementation, outcomes and livelihood impacts in Springate-Baginski and Blaikie Forests, people and power. Earthscan, London
- Reddy MG, Kumar KA, Rao PT, Springate-Baginski O (2010) The making of Andhra's Forest underclass: an historical institutional analysis of forest right deprivations. IPPG, Manchester, <http://www.ippg.org.uk/forestedlandscapes.html>. Accessed 01.06.2011
- Sarin M (2003a) Bad in law, Analysis of forest conservation issues in down to earth, July 15, 2003
- Sarin M (2006) Unlocking opportunities for forest-dependent people or for the global market? A critique of the World Bank report. Inform, Winrock International India, New Delhi
- Sarin M, Singh NM, Sundar N, Bhogal RK (2003) Devolution as a threat to democratic decision-making in forestry? Findings from three states in India, ODI Working Paper 197, ISBN 0 85003 637 2, February 2003, London
- Sharma BD (1990) Resolution of conflicts concerning forest lands: adoption of a frame by government of India, Commissioner, Scheduled castes and scheduled tribes, New Delhi
- Singh C (1986) Common property, common poverty: India's forests, forest dwellers and the law. OUP, New Delhi
- Sivaramakrishnan K (1999) Modern forests: statemaking and environmental change in colonial Eastern India. OUP, New Delhi
- Skockpol T, Evans PB, Rueschemeyer D (eds) (1985) Bringing the state back in. Cambridge University Press, Cambridge
- Springate-Baginski O, Blaikie P (eds) (2007) Forests, people and power: The political ecology of reform in South Asia. Earthscan, London
- Sundar N (2000) Unpacking the 'joint' in joint forest management. *Dev Change* 31:255–279
- Sunderlin WD, Hatcher J, Liddle M (2008) From exclusion to ownership? Challenges and opportunities in advancing forest tenure reform. RRI, Washington
- White A, Martin A (2002) Who owns the world's forests? Forest tenure and public forests in transition. Washington: ForestTrends
- World Bank (2006) India: unlocking opportunities for forest dependent people. World Bank, New Delhi